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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,884	02/26/2002	Vijay Vaidyanathan	2060CIP2CIP	5658

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EXAMINER

BAYAT, BRADLEY B

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/082,884	Applicant(s) VAIDYANATHAN ET AL.	
	Examiner Bradley B. Bayat	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

This communication is in response to remarks and amendment filed on December 14, 2005. Claims 2-4, 6, 8-9, 15-17, 20, 22-24, 30, 31, 37 and 38 have been currently amended. Thus, claims 1-42 remain pending.

Response to Arguments

Applicant's arguments filed on 12/14/2005 have been fully considered but they are not persuasive.

Applicant argues that the claimed invention is directed to reselling of files and the neither reference provides for such a service (response p. 10-11). Wolfe is directed to electronic commerce transactions and more specially to a system, method and storage medium for generating a commission link. Wolfe does not limit the invention to merely reselling of files, but rather to any items for sale in an electronic environment. Furthermore, Geravis was merely introduced to demonstrate automatic disbursement to all interested parties.

Applicant makes a distinction between a reseller and affiliate in attempting to overcome the cited references (p. 11-12). Although the applicant may be referring to a link as a reseller URL, Wolfe teaches the same mechanism in tracking and collecting commission and sales revenue as recited in the claimed invention. Furthermore, applicant's distinction between a frame controlled by a merchant or not is irrelevant as to the in both the invention and Wolfe a link is generated to accomplish the stated provisions. " Note that the affiliate network's linking reference tag (the one after "href=" in the affiliate network's home page link) is a Web site operated by the affiliate network (e:g., affiliate-network.com), rather than the merchant. Thus,

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when the consumer is linked to the affiliate network's Web site, a tracking process may be triggered. Next, the affiliate network's Web server redirects the consumer to the merchant's Web site. The merchant's Web site continues the tracking process and reports any resulting sales and commissions back to the affiliate network. Once the consumer has been redirected from the affiliate network's Web site to the merchant's Web site, the URL displayed in the consumer's browser corresponds to the merchant's Web site, and not the affiliate network's Web site. In most cases, the consumer is unaware that he or she is first directed to the affiliate network's Web site before going to the merchant's Web site. For example, in the consumer's perspective, he or she visits a Web site, clicks on a link labeled "merchant.com" and is taken directly to the merchant.com site, complete with the merchant.com URL in the browser's address bar [0027]."

Wolfe further teaches that the most basic complication is that many merchants do not offer their affiliates the opportunity to link to individual products [0044]. Therefore, for the purposes of the distinction between an affiliate and reseller as proscribed by applicant, Wolfe's affiliate can server as both.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfe (US 2003/0023687 A1) in view of Geravis (Electronic Rights Management and Digital Identifier Systems, March 1999, The Journal of Electronic Publishing, Volume 4, Issue 3, pp.1-25).

1 Wolfe discloses a method for enabling electronic delivery of files in a digital marketplace, the method comprising the steps of:

(a) maintaining a data repository for storing information relating to the files available in the digital marketplace, including business rules associated with each file that define electronic transfer of the files during commercial transactions (§18, 64);

(b) in response to a first user requesting to resell a particular file and thereby becoming a reseller, using the data repository to dynamically generate a reseller uniform resource locator (RURL) that uniquely identifies the reseller and the file (column 15, lines 21-25);

(c) providing the RURL to the reseller for posting on a website in order to make the file commercially available to others on the website (§16-27); and

(d) in response to a second user clicking on a link to download the file, retrieving from the data repository the business rules associated with the file identified in the RURL to customize the download of the file to the second user and to automatically distribute payments to the reseller (§27, 73-74).

Although Wolfe discloses that any automatic execution can be programmed for processing payments (§83), it does not explicitly disclose automatically distributing payment an owner of the file.

Geravis, however, teaches an electronic rights management and digital identifier system wherein payment can be distributed automatically to content owners through links either directly or through an aggregator of data or third party (i.e., an affiliate or reseller) identifying usage of their files while preserving confidentiality (pp.18-20). In fact, as per applicant's specification on page 6, lines 15-17, applicant gives examples of "content owners" as being "shareware publishers, musicians, artists and designers." Thus, applicant's recited claims are directed to a "content owner" as anyone besides a third party reseller or affiliate (specification page 6, lines 17-18). It would have been obvious to one of ordinary skill in the art at the time of the invention to include automatic disbursement of payment to all parties, including the owner or creator of content for reliable and efficient tracking and reporting of royalties and commissions, as per teachings of Wolfe (§3-4) and Geravis (pp. 17-22).

2 The method of claim 1 wherein step (a) further includes the step of: providing within the business rules a pricing model associated with the file (§21).

3 The method of claim 2 wherein step (a) further includes the step of: storing a record for each file that includes fields for identifying a location of the file and the owner of the file (§45, 53-55).

4 The method of claim 3 wherein step (a) further includes the step of: providing each record with

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a file ID, a file name, a content owner ID, metafile information, a fingerprint, and the business rules (§43, 74-77, 85-86).

5 The method of claim 4 wherein step (a) further includes the step of: providing the business rules with a redistributable indicator that indicates whether the file is redistributable (§27).

6 The method of claim 4 wherein step (a) further includes the step of: using the fingerprint to uniquely identify each file by content of the file (§52-62).

7 The method of claim 6 wherein step (a) further includes the step of: generating a bitstream ID by calculating binary values in data blocks of the file (§68-74).

8 The method of claim 2 wherein step (d) further includes the step of: (i) charging the second user a retail price for downloading the file (§53).

9 The method of claim 8 wherein step (a) further includes the step of: (i) allowing the content owner to set the retail price and a reseller commission both positively and negatively (§21).

10 The method of claim 2 wherein step (b) further includes the step of: (i) providing the RURL with a web address of the marketplace, the file ID, and the user ID of the reseller (§68-75).

11 The method of claim 10 wherein step (b) further includes the step of: (i) providing the RURL

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by displaying the RURL and allowing the reseller to copy and paste the RURL on the website (¶45, 65).

12 The method of claim 10 wherein step (b) further includes the step of: (i) providing the RURL via email (¶28, 59, 75).

13 The method of claim 1 further including the step of: implementing the digital marketplace as a website on a network (fig 8 and associated text).

14 The method of claim 1 further including the step of: implementing the digital marketplace as a peer-to-peer network (¶58, 65-72).

Claims 15-28 and 29-42 are respectively directed to a computer readable medium and system of the above recited method claims. Accordingly, claims 15-42 are similarly rejected as detailed above.

Although the Examiner has pointed out particular references contained in the prior art(s) of record in the body of this action, the specified citations are merely representative of the teachings in the art as applied to the specific limitations within the individual claim. Since other passages and figures may apply to the claimed invention as well, it is respectfully requested that the applicant, in preparing the response, to consider fully the entire references

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as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- US Patent 6,029,141 to Bezos et al.
- US Patent 6,282,653 B1 to Berstis et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley B. Bayat whose telephone number is 571-272-6704. The examiner can normally be reached on Tuesday - Friday 8 a.m.-6:30 p.m. and by email: bradley.bayat@uspto.gov.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached regarding urgent matters at 571-272-6712.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

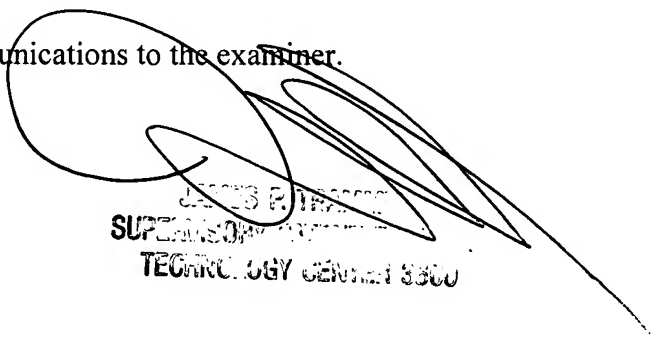
Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or Faxed to:

(571) 273-8300 - Official communications; including After Final responses.

(571) 273-6704 - Informal/Draft communications to the examiner.

bbb



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